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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/335,689 06/18/99 TOUSIGNANT

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HM12/0420

EXAMINER

SCHNIZER, R

ART UNIT

PAPER NUMBER

1632

DATE MAILED:

04/20/00

**Please find below and/or attached an Office communication concerning this application or proceeding.**

**Commissioner of Patents and Trademarks**

**Office Action Summary**Application No.  
**09/335,689**

Applicant(s)

**Tousignant**

Examiner

**Richard Schnizer**

Group Art Unit

**1632**

- ☐ Responsive to communication(s) filed on \_\_\_\_\_
- ☐ This action is **FINAL**.
- ☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1035 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 1 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

**Disposition of Claim**

- ☒ Claim(s) 1-30 \_\_\_\_\_ is/are pending in the application.
- Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- ☐ Claim(s) \_\_\_\_\_ is/are rejected.
- ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- ☒ Claims 1-30 \_\_\_\_\_ are subject to restriction or election requirement.

**Application Papers**

- ☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.
- ☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.
- ☐ The proposed drawing correction, filed on \_\_\_\_\_ is ☐ approved ☐ disapproved.
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. § 119**

- ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- ☐ All ☐ Some\* ☒ None of the CERTIFIED copies of the priority documents have been
- ☐ received.
- ☐ received in Application No. (Series Code/Serial Number) \_\_\_\_\_.
- ☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\*Certified copies not received: \_\_\_\_\_

- ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

**Attachment(s)**

- ☐ Notice of References Cited, PTO-892
- ☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). \_\_\_\_\_
- ☐ Interview Summary, PTO-413
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Notice of Informal Patent Application, PTO-152

— SEE OFFICE ACTION ON THE FOLLOWING PAGES —

Art Unit: 1632

## **DETAILED ACTION**

### ***Election/Restriction***

Claims 8, 12, 23, and 30 are generic to a plurality of disclosed patentably distinct species of targeting peptides comprising linear or cyclical RGD sequences; UDP/UTP; lactose; lectins; penetratin; LDL targeting agents; mannose-6-phosphate; HAV peptides; CNP-22 peptides; and airway-specific antibodies. Applicant is required under 35 U.S.C. 121 to elect a single disclosed species, even though this requirement is traversed. Linear and cyclical RGD sequences have been interpreted as a single species.

Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

A telephone call was made to Anthony Tritico on 4/13/00 to request an oral election, but did not result in an election being made.

Applicant is advised that a complete reply to this requirement must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

Art Unit: 1632

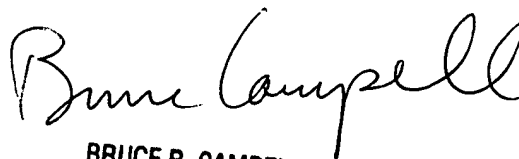
Any inquiry concerning this communication or earlier communications from the examiner(s) should be directed to Richard Schnizer, whose telephone number is 703-306-5441.

The examiner can normally be reached Monday-Friday from 7:30 to 4:00 (Eastern time).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jasmine Chambers, can be reached at 703-308-2035. The FAX phone number for art unit 1632 is 703-308-0294.

Inquiries of a general nature or relating to the status of the application should be directed to the group receptionist whose telephone number is 703-308-0196.

Richard Schnizer, Ph. D.



BRUCE R. CAMPELL  
PRIMARY EXAMINER  
GROUP 1800